



**Date:** February 17, 2017  
**To:** Thomas J. Bonfield, City Manager  
**Through:** W. Bowman Ferguson, Deputy City Manager  
**From:** Steven Hicks, Director, General Services Department  
**Subject:** Construction Contract for the  
West Ellerbee Creek Trail Phase II Project (TIP # C-5572)

### **Executive Summary**

The General Services Department is managing delivery of the West Ellerbee Creek Trail Phase II project on the behalf of Durham Parks and Recreation with CIP funds (CH505) and federal Congestion Mitigation Air Quality (CMAQ) grant funds. The urban 1.08 mile trail begins at Westover Park and continues north along West Ellerbee Creek to Broad Street where it connects to the North/South Greenway on Stadium Dr.

NCDOT approved Construction Authorization allowing the City to bid the project in September 2016. To date, the City has received formal bids for construction through two separate bid processes. The Fred Smith Construction was the low bidder in the amount of \$1,787,800.00 and is qualified with NCDOT to perform construction services.

This agenda item requests City Council approval to enter into a construction contract with Fred Smith Construction for the West Ellerbee Creek Trail Phase II project. Agenda item 11728 has been presented concurrently requesting approval of CMAQ funding and additional CIP funds. Agenda item 11732 is also being presented to Council concurrently requesting approval to enter into a Construction Engineering Inspection professional services contract.

### **Recommendation**

The General Services Department makes a motion for City Council to:

Authorize the City Manager to execute a construction contract with Fred Smith Construction for the West Ellerbee Creek Trail Phase II project in the amount not to exceed \$1,787,800.00, and

Establish a contingency fund in the amount not to exceed \$178,780.00, and

Authorize the City Manager to negotiate and execute change orders provided the cost of all change orders and the original contract does not exceed the total project cost of \$1,966,580.00.

## Background

In the 2015 City of Durham Resident Survey, greenways and trails were the highest ranking recreation amenity in the Parks, Recreation, and Open Space category to receive prioritization over the next two years. This two-directional multiuse greenway trail project connects Phase I of the West Ellerbee Creek Trail that terminates at Guess Road to the North/South Greenway on Stadium Dr. The new one mile extension follows West Ellerbee Creek and will connect residents and visitors to Westover Park, shopping on North Pointe Drive, residential communities, and Durham's existing trail network.

To date, the City has received a total of \$1,440,640.00 in federal CMAQ grants for this project. Federal funding requires that the project design confirms to minimum standards set by the American Association of State Highway and Transportation Officials (AASHTO) and NC Bicycle Facilities Planning and Design Guidelines. Stewart Engineering was hired by the City for all services related to design, engineering, permitting, NCDOT pre-construction certifications, and bidding. All tasks under this contract were completed in February 2017.

The project design includes 1.08 miles of new trail construction consisting of a 10 foot-wide asphalt path, wooden boardwalks, concrete sidewalk with curb and gutter, and retaining walls. Only NCDOT pre-qualified contractors were permitted to submit bids on this project. NCDOT also requires that the prime contractor self-perform 40% of the project scope of work.

This agenda item requests City Council approval for construction services with Fred Smith Construction for the West Ellerbee Creek Trail Phase II project.

## Issues/Analysis

The project was first advertised and four bids were opened November 17, 2016. The low bidder did not meet NCDOT requirements and in December 2016 was determined to be not responsive/not responsible. The other three bidders exceeded the engineer's estimate and project budget by an average of 62%. As the project was designed to meet minimum standards, a decision was made to keep the project scope as-is and re-advertise.

Engineer's estimate	\$1,439,951.55
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### November 17, 2016 bid results:

WECC, Inc.	\$1,347,186.50
Fred Smith Construction	\$1,830,000.00
Browe Construction	\$2,386,758.60
Carolina Sunrock	\$2,761,440.32

The project was re-advertised for 21 days in compliance with NCDOT bidding requirements and bids were opened on January 31, 2017. Two bids were received and the low bidder was Fred Smith Construction at \$1,787,800.00. Although this is \$42,200.00 lower than the Construction's original bid, it is 24% above the Engineer's

Estimate. NCDOT governed projects operate under NCGS Chapter 136 which precludes negotiations with low bidder to bring the project within budget.

Engineer's estimate	\$1,439,951.55
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**January 31, 2017 bid results:**

Fred Smith Construction	\$1,787,800.00
Carolina Sunrock	\$2,338,822.20

In February 2017 a detailed value engineering exercise was completed by GSD and Stewart Engineering. A total of \$205,000.00 was identified for scope reductions, however, any substantive changes to the scope of work would trip the need for NCDOT to re-review and approve the project, re-advertise for a third time, and set the schedule back for an undetermined amount of time as well as risk additional escalation costs. As part of the concurrent City Council agenda item #11728, the project team has recommended reallocating funds for this shovel-ready project from the Kelly Bryant Bridge South Trail project so that this construction contract may be encumbered. The team will be seeking additional Federal funding for the project later this year and those funds may partially or fully reimburse the City for the reallocated funds.

**Alternatives**

City Council could choose not to authorize the City Manager to enter into a contract with the Fred Smith Construction and put the project on hold until additional Federal dollars are awarded. This alternative is not recommended as it would delay the project delivery schedule significantly and would require a re-advertisement for construction, re-advertisement of the CEI professional services, and risk cost escalation.

**Financial Impacts**

The total cost for this construction contract and 10% contingency is \$1,966,580.00.

**CONSTRUCTION COST**

Construction - Fred Smith Construction	\$ 1,787,800.00
Construction Contingency 10%	\$ 178,780.00
	<u>\$ 1,966,580.00</u>

**FUNDING SOURCES**

CMAQ funding 80% match	\$ 1,573,264.00
CH505 20% match	\$ 393,316.00
	<u>\$ 1,966,580.00</u>

**UBE Summary**

There were no UBE requirements as this project was assigned a 6% DBE goal by NCDOT.

Fred Smith Construction met the DBE goal and will subcontract to the following certified firms:

<b>Firm</b>	<b>ID</b>	<b>City/State</b>	<b>Amount</b>	<b>% of Contract</b>
Arborex Tree Service	MUBE	Knightdale, NC	\$58,750.00	3%
Austin Trucking, LLC	MUBE	Clayton, NC	\$49,108.02	3%

**Attachments:**

Attachment A – Construction contract

Attachment B – Vicinity Map